

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:09-00092

HOMER LEE BUTCHER

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On October 9, 2013, the United States of America appeared by C. Haley Bunn, Assistant United States Attorney, and the defendant, Homer Lee Butcher, appeared in person and by his counsel, George B. Vieweg, III, for a hearing on the petition on supervised release and amendment thereto submitted by United States Probation Officer Jeffrey D. Bella. The defendant commenced a three-year term of supervised release in this action on August 26, 2011, as more fully set forth in the Judgment Including Sentence Under the Sentencing Reform Act entered by the court on September 18, 2009.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) the defendant failed to follow the instructions of the probation officer inasmuch as he failed to report to the probation office as instructed on May 23, 2012, and July 3, August 5, and August 6, 2013; (2) the defendant used and possessed controlled substances without a prescription as evidenced by positive urine specimens submitted by him on April 24, May 2 and 22, September 4 and 10, 2012, and February 28, 2013, for oxycodone and/or morphine; on August 2, 2013, for morphine, oxycodone and oxymorphone; September 4, 2013, for morphine; and his admission on November 7, 2012, to using heroin and roxycodone; his admission on March 6, 2013, to using heroin; and his admissions on March 20 and September 3, 2013, to using heroin; (3) the defendant was in possession of drug paraphernalia on November 16, 2012, which he admitted was used to inject heroin; and (4) the defendant attempted to evade the urine collection process on November 7, 2012, inasmuch as he had a bottle of urine taped to his body; all as admitted by the defendant and as set forth in the petition on supervised release and amendment thereto.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously imposed upon the defendant in this action be, and it hereby is, revoked.

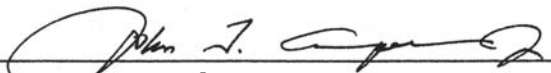
And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, after considering the factors set forth in 18 U.S.C. § 3583(e), that the defendant is in need of correctional treatment which can most effectively be provided if he is confined, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of FOUR (4) MONTHS, to be followed by a term of thirty-two (32) months of supervised release upon the standard conditions of supervised release now in effect in this district by order entered June 22, 2007, and the further condition that the defendant not commit another federal, state or local crime and the special condition that he spend six (6) months in a community confinement center

or program such as the LEARN program, as deemed appropriate by the probation officer, where he can receive drug abuse counseling and treatment. The defendant shall follow the rules and regulations of the facility and participate in after-care treatment as directed by the probation officer. If feasible, the defendant shall report directly to the program from his place of incarceration.

The defendant was remanded to the custody of the United States Marshal.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: October 30, 2013



John T. Copenhaver, Jr.
United States District Judge